

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA

Plaintiff,

:

Case No. 3:06-cr-141

-vs-

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

:

SARA BACK,

Defendant.

REPORT OF HEARING AND ORDER TO DETAIN

This case came before the Magistrate Judge at 1:30 p.m. on Wednesday, May 15, 2013. Defendant was present with counsel attorney Lawrence Greger. Defendant was advised of the nature of the alleged violations.

Defendant is currently under supervision of the Probation Department on a term of supervised release, imposed upon revocation of her probation in September, 2010. The Probation Department filed, on May 2, 2013, a Violation Report and Petition for Warrant (Doc. No. 107). Judge Rose issued a warrant on that request. The Report indicates Ms. Back was arrested at Miami Valley Hospital where she had arrived with her three-year old son to visit her boyfriend, Levi Wireman, whom she then and there injected with heroin. Dayton Police arrested her at that time, but she was released by detectives pending a laboratory report. The Violation Report charged her (Violation 1) with commission of a new crime, possession of heroin, which she denied. The Violation Report also charged her with unlawful use of a controlled substance (Violation 2) and failure to report to Probation on four occasions (Violation 3), both of which she

admitted.

Fed. R. Crim. P. 32.1(a)(6) provides that the magistrate judge before whom the initial appearance is held has authority to release or detain the defendant pending further proceedings. Although the Rule provides for these proceedings to be held before a Magistrate Judge, it is actually rare for such proceedings in felony cases to be referred to a Magistrate Judge at the Dayton location of court. Nevertheless, Mr. Greger made a request for Defendant's release on bond which the Magistrate Judge denied, based on Ms. Back's failure to prove by clear and convincing evidence that she would not flee or pose a danger to other persons or the community in that she has had repeated failure to complete treatment or even to report to Probation and that there is reason to believe she entered a medical facility with a small child with purpose to distribute heroin to a patient.

Because Defendant was remanded to custody, she is entitled to a prompt preliminary hearing to determine whether there is probable cause to believe she committed Violation No. 1, which hearing shall be set by the Clerk.

May 15, 2013.

s/ *Michael R. Merz*
United States Magistrate Judge